App. F. IX-4

1916.

File No. 210-16

Previous References (Courts.)

Serial Nos. 1—5—

Later References

Legis 35-17-5

P

General and Revenue Secretariat.

Serial Nos. Five

Part B for March 1918.

SUBJECT

Papers relating to the grant of copies of ~~documents~~ Records of Village Courts.

Further action taken in Legis. file 35-17-5.

Manasamany Iyengar
27-9-27

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 210-16

FILE HEADING.

Grant of copies of records of Village Courts

From

The Registrar Ch. Ct.

Doc No. 209 Dated 16/19 Dec 16 Received 21/22 Dec. 16.

Diary No. 1314 Enclos. — Spare Copies. — Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that in the opinion of the Judges the decree copy under Sec 46 of the Regn is appears to be intended to be given free of cost; & and it as payable the desirability of is point an order to that effect and adds that the judges consider that copies of any other record of the Village Cts should be be granted under the copying rules of the Revenue Dept.

NOTES AND ORDERS.

The rules of the Rev. Dept. for grant of copies will be found on page 40 of the Land Revenue Rules. The rate is 1½ as or 2 as for every 100 words or part thereof according as the original is in Kannada or English, the fees being payable to Govt.

2) Do Madras rules for the grant of copies of records of

NOTES—First Sheet.

1342

(22

G. R. S. 12]

General and Revenue Secretariat. | Ele File No. 210 of 1916.

Serial No.

Village Courts are quite different. An applicant has to state whether he will take the copy required personally from the Village Munsiff or from the D^t Munsiff or receive it by post; copies will be prepared in the D^t Munsiff's Court only under the rules applicable to copyists & sent to the applicant in the manner elected by him. The Regn does not appear to provide for the receipt of these rules. Subd for orders.

see page Circular re Amdt to it

19/1/16 20

3) Please put up the Accounts regarding the Regulation with the connected papers for finding out the original S.46.

19/1/16

4) The file regarding the introduction of the Regn was put up with Legis 22-16 (re amendment of the Sec 3 of the Regn) & it was in the Dewan's office. It is taken from that file & is put up herewith.

19/1/16

19/1/16

5) Excepting in one Court in the Tanjore District, no persons have been employed in such Courts to assist the Village Munsiff in keeping the Registers and in writing the proceedings. The Munsiffs are also appointed by the D^t Courts and the work is supervised by them. If approved, the Revenue Commissioner will be consulted in the matter before orders are issued.

19/1/16

First Member 6)

7) Draft 4/3/16

3088 12.5.17 (with 3 books)

NOTE—Contn. sheet.

GPB—70,000—17-12-15

2: -
3 (3

G. R. S. 12]

General and Revenue Secretariat. | C/S File No. 210 of 1916-17

Serial No.

8

Submitted with a draft to the Rev. Comnr

17-5-17

Sus A

17/5/17

9 Drwe 17/5-

2 To. The Rev Comnr Mysore.
No J 4189 22. 5. 1917
Requests to be so good as to favour Govt with an expression of his opinion on the several points raised in the Registrar's letter on the Subject.

3. From,
The Rev Comnr Mysore.
D. Dis 2215 Gl 2. 6. 17
States that he agrees with the opinion of the Judges on the Subject of the grant of Copies of records of Village Courts.

10
Submitted for orders.
ASR 15/7 MLi 11. Please put up Suitable
16/7 draft in accordance with the views of the chief Court.

NOTE—Contn. sheet.

GPB—70,000—17-12-15

628.

4 (2

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Subd.

12 In connection with the draft ordered to be put up, the Govt desired that the provisions in the Civil & Cr. Pro. Codes in the L.R. code relating to grant of copies be looked into with a view to see under what section of the Village Courts Regn a rule can be framed now.

Cr. Pro Code. Please see sections 371 & 554. Rules relating to the grant of copies in criminal courts have been framed by the Chief Court under Sec 554.

R.P. no 85 & 29.3.1913.

Civil Pro Code. Please see the Rule 20 of Order XX & Sec 122. The rules framed by the Chief Court as regards copies in civil courts seem to be under the latter.

R.P. no 153 & 28/11/13

L.R. Code. The enabling sections are 206 & 232. Please see pages 38 to 41 of the L.R. Rules.

13 The only Section of the Village Courts Regn which relates to copies is Sec. 46, and there is no section which enables the framing of rules generally. Instructions in regard solicited from the Govt to the preparation of the draft

Appr 15/10

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16

5

U.O. No. 99-17

Dated 31st October 1917

Forwarded unofficially to the Government Advocate for favour of opinion as to the Section under which rules regarding the grant of copies other than those referred to in S 46 can be framed.

By order
Registrar
Secretary Chief Court

1 DEC. 17

10 NOV 1917

Nil

Nil Nov. 26
1917-18

(5)

I am unable to find any section in the Reg.ⁿ. Perhaps the case may be brought under Art 9 Sch I. of the Court Fees Act, read with Sec 6 of the Act. The fee is not a Copying fee but a Court fee in Books furnished by a Public Officer.

Registrar
Chief Court
8.11.17

Read 10/11

(16)

Submitted
10/11

There is no Section of the Regulation under which rules can be framed regarding the kind of papers on which copies [illegible]

WD 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 210 of 1916.

Serial No.	
	preparing the same and the levy of fees thereof. The provision referred to by the Govt. Advocate refers to the filling of such copies in courts. If approved, the Chief Court will be requested consulted in the matter.
	Chief Secretary)
4	To The Registrar Chief Court no J 2036 11th Dec. 1917 Requests him to state under what Section of the Village Courts Regulation rules re the ~~fee~~ grant of copies other than the one referred to in Sec. 46 can be framed.
5	From the Regr. Chief Court no R.O.C. 200 of 1916-17 dt 25-2-18 Furnishes the views of the Judges in the matter.
	Submd for orders 6/3 18 The question for consideration is whether rules can be framed under the existing Village Courts Regulation providing for

NOTE—Contn. sheet.

ND 1283—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat. | C5 File No. 210 of 1916.

Serial No.

the grant of copies of records of the Village Courts. The Regulation is based entirely on the Madras Act. In Madras copies of the records are granted by the District Munsiff under the rules in force in the Civil Courts. The Chief Court originally recommended that copies may be granted under rules prevailing in the Revenue Dept. But there is no provision in the Village Courts Regulation empowering Govt. or the Chief Court to frame rules in such matters. The work of the Village Munsiff being in many cases honorary he cannot be asked to write out copies and supply the same to parties demanding the same. There is nothing in the Regulation, Rules or the papers to indicate that the Govt. intended that the copies should be furnished free at the expense of the Village Munsiff. The Madras Act is being amended this cold season amending it provision made empowering Govt. to frame rules ~~to regulate~~ regarding "the grant of copies of decrees and other records" and "the levy of fees for the grant of copies." [vide cl 17 & 18 (c) of]. It seems absolutely necessary to have a similar clause introduced into our Regulation. In its absence, there will be no authority to apply the rules in force either in the Revenue or the Judicial Dept.

J

Govt. Pleader

I put up

2 further action taken in Legis file 35-17-5.

If approved, draft Bill to amend the Regulation will be submitted.

7/3

First Member

Yes, do please

8/3

NOTE—Contn. sheet.

3109
9.3

R. O. C. No.209.

GEN. & REV. SEC. 21 DEC 1916

Chief Court of Mysore,

Bangalore, 16th December 1916.

19

DIARY J 1342

From

N. T. GOPALIENGAR, Esq., B. A., B. L.,

Registrar of the Chief Court of Mysore.

16-17

210-16

To

L. M. NARASINGA RAO, Esq., B. A., B. L.,

Secretary to the Government of Mysore,

General Department.

Sir,

The District Judge of Mysore has submitted for the orders of this court a copy of a letter from the Munsiff of Seringapatam soliciting instructions as to the kind of paper on which copies to be given to parties under the Mysore Village Courts' Regulation No.VII of 1913 are to be made by Village Munsiffs, the scale of fees to be levied for writing them and the agency by which they have to be prepared.

Most of the Judges of the Civil Courts who were consulted in the matter are of opinion that the copying rules of the Revenue Department may be made applicable to the Village Courts and that the person who may be employed to

to assist the Village Munsiffs in preparing registers, under section 7 of the Regulation may be entrusted with the work of preparing the copies.

I am directed to state that though section 46 of the Regulation is not free from ambiguity on the point, the Judges think that it was intended that the decree copy for the grant of which that section provides should be given free of cost, and to suggest for the consideration of the Government the desirability of issuing orders to that effect.

I am also to state that the Judges are of opinion that any other copies wanted from the records of Village Courts should be applied for and taken under the copying rules now in force in the Revenue Department.

I have the honor to be,

S i r,

Your most obedient servant,

R E G I S T R A R.

M. S. C.

G. R. S. 26]

GEN. & REV. SECRETARIAT. TYPING Sec. 17 MAY 1917

3

cs File No. 210-16

Serial No. 2

Diary No. of letter replied to .....

No. J 4189

Encl 1

General and Revenue Secretariat

( )

, *the* 191 .

To

The Revenue Commissioner in Mysore.

Date of issue 22/5/17

Signed by W. S. Srinivasa Iyr

Sir,

In forwarding herein the copy of letter R. O. C. No. 209 dated 16th/19th December 1916 from the Registrar of the Chief Court of Mysore on the Subject of the Grant of Copies of records of Village Courts, I am directed to request that You will be so good as to favour Government —

over.

SUBJECT.

Sec/1915/1st copy

4

write an expression of your opinion on the several points raised in the Registrar's letter on the subject.

I have etc

for General Secy

MSH

17-5-17

17/5

List of enclosures

Copied by

Examined by

GPB—20,000—10-10- 4

OFFICE OF THE REVENUE COMMISSIONER
IN MYSORE,

Bangalore, ~~30th Mar~~ 2-6- 1917.

No. ಡಿಡಿ 2215-ಇ

DIARY No. J.2628

19 -10
SECTION Ch
FILE No. 210-16
SERIAL No. 3

FROM

K. Doraswami Iyer Esquire,
Revenue Commissioner in Mysore.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
G E N E R A L *Department.*

SIR,

With reference to your letter No.J.4189/Cts. 210-16-2 dated the 22nd instant forwarding for opinion copy of letter No.R.O.C.209 dated 19th December 1916 from the Registrar of the Chief Court of Mysore setting forth the opinion of the Judges on the subject of the grant of copies of records of Village Courts, I have the honor to state that I agree with the opinion of the Judges in the matter.

I have the honor to be,
Sir,
Your most obedient servant,

Assistant Commissioner,
For Revenue Commissioner,
Absent from the Station.

H.V.

6

G. R. S. VI—G/32]

SUBJECT Enquiry re the Section of the Village Courts Regulation under which rules for grant of copies of records can be framed

Diary No. of letter replied to J2628

Section Courts
File No. 210-16
Serial No. 4

GENERAL AND REVENUE SECRETARIAT,
(Courts)
, the 191

No. J2036

Date of issue 11-12-1916

To

Signed by W. G. Sreenivasa Iyer

The Registrar, Chief Court

Sir

With reference to your letter no. R.O.C. 209 dt. 15.12.16 on the subject of the grant of copies of the records of Village Courts, I am directed to request you to be so good as to state under what Section of the Village Courts Regulation the rules ~~as proposed may be~~ regarding the grant of copies other than the one referred to in Sec. 46 can be framed ~~under~~.

I have &c

P.W.D.I

for Chief Secy

209
~~26~~ 1916-17.

Chief Court of Mysore,

Bangalore,

Dated 21st February 1918.

25

From

N. T. Gopaliengar Esq., B.A., LL.B.,

Registrar of the

Chief Court of Mysore.

17-18
Cau5
210-16
5

To

C. S. Balasundaram Iyer Esq., B.A.,

Chief Secretary to the Government of Mysore,

B a n g a l o r e.

8716

GEN. & REVENUE SECRETARIAT III JUDICIAL 26 FEB 1918

S i r,

Adverting to your letter No.J.2036/Cts.210-16-4 dated the 11th December 1917 enquiring under what section of the Village Courts Regulation rules regarding the grant of copies other than the one referred to in section 46 can be framed, I am directed to observe that though section 8 suggests that copies are to be granted of documents other than decrees the Regulation provides expressly for a copy of the decree only. Section 76 of the Evidence Act prescribes the grant of copies of public documents which any person has the right to inspect and in the absence of any express provision of the law on that point, it is held in England, and probably would be held so here also, that a person has the right to inspect documents in which he has an interest, or of which inspection may be required to protect an interest: 20 Mad 89 (at. page 196) and 30 Cal. 284 (at page 293); and so though there is no provision in the Codes for the grant of copies of evidence generally, it is always recognised that parties to the suit or trial have a right to get copies and the rules provide for their grant. And the same may be said of trials in Village Courts so far as the right is concerned: but the

Regulation

Regulation contains no provision for making rules.

2. Section 76 of the Evidence Act requires the payment of the 'legal fee' for taking a copy: the Codes of the Civil and Criminal Procedure provide for parties getting copies 'at their expense' and the Land Revenue Code expressly authorises the Government to fix the fees (section 206). But the Village Munsiff as such is not a Revenue Officer to whom section 206 would apply.

3. Though the rules as to the grant of copies by civil and criminal courts are framed under section 652 Civil Procedure Code (old) corresponding to section 130 of the new Code and section 554 of the Code of Criminal Procedure respectively, it is not quite easy in either of those sections to find the authority to fix the 'legal fee', but in the absence of express provision, it may be that the Court granting the copy 'at the expense' of the applicant is entitled to fix the price and that the rules are merely instructions to the Courts as to what price to fix and how to collect it.

* Civil R.P.No.153 and Criminal R.P. No. 85.

4. The Village Courts Regulation does not say that the copy of decree is to be at the expense of the party, and it may be that the Government were inclined to permit these copies to be given free of cost as being generally likely to be short and inexpensive to prepare and as a small concession to aid in popularising the Courts. As the Regulation stands it is difficult to say that any legal fee can be charged for any copy under the Village Courts Regulation and if there is no 'legal fee' the inference would be that copies given under section 76 of the Evidence Act must be given free of charge.

5. If so the person to certify is the person having the custody of the documents and that the Judges suppose, is the Village Munsiff himself though it may be the Shanbogue under the

the explanation to section 76. It is open to the Government to fix the ordinary official duties of Village officers and to make it the duty of any particular officer to deliver the copy and so by reason of the explanation, to have the custody of the documents.

6. The result seems to be that the Village Munsiff is bound to give copies, but there is no provision for fixing the 'legal fee' and so they must be given free of charge. If it is the intention of the Government that copies in Village Courts should be granted free of charge for the reason set out in paragraph 4 supra, all that has to be done by the Government is to say who is to write the copies and whose duty it is to be to deliver them. If not, I am to state that it will be necessary for the Government to take power to charge a fee by an amendment of the Regulation, and that in the opinion of the Judges it is desirable that a section should be added to the Regulation empowering the Government to make rules in this matter and in any other matter in which rules may be desirable for the working of the Regulation, as is done in other Regulations.

I have the honor to be,

S i r,

Your most obedient servant,

R E G I S T R A R.